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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 5851

12 **GSB PHARMACEUTICAL**
13 **ENTERPRISES dba ALISAL**
14 **PHARMACY, GURPARTAP SINGH**
15 **BASRAI, PRESIDENT & SECRETARY**
323 N. Sanborn Rd.
16 Salinas, CA 93905
Original Permit No. PHY 50019

A C C U S A T I O N

17 **ROBERT A. SOUZA**
108 San Benancio Road
18 Salinas, CA 93908
Pharmacist License No. RPH 22767

19 **GURPARTAP SINGH BASRAI**
37323 Fremont Blvd.
20 Fremont, CA 94536
Pharmacist License No. RPH 31057

21 Respondents.
22

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24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
27 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

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2. On or about September 16, 2009, the Board issued Original Permit Number PHY 50019 to GSB Pharmaceutical Enterprises to do business as Alisal Pharmacy, Gurpartap Singh Basrai, President and Secretary (Respondent Alisal). The Original Permit was in full force and effect at all times relevant to the charges brought herein and will expire on September 1, 2017, unless renewed.

3. On or about November 8, 1962, the Board issued Original Pharmacist License Number RPH 22767 to Robert A. Souza (Respondent Souza). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2017, unless renewed.

4. On or about August 1, 1977, the Board issued Original Pharmacist License Number RPH 31057 to Gurpartap Singh Basrai (Respondent Basrai). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2017, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

6. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) and the Uniform Controlled Substances Act (Health & Safety Code, § 11000 et seq.).

7. Section 4300, subdivision (a) of the Code provides that every license issued by the Board may be suspended or revoked.

8. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

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1 **STATUTORY AND REGULATORY PROVISIONS**

2 9. Section 4301 of the Code provides, in pertinent part:

3 “The board shall take action against any holder of a license who is guilty of unprofessional
4 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but
5 is not limited to, any of the following:

6 ...

7 “(j) The violation of any of the statutes of this state, of any other state, or of the United
8 States regulating controlled substances and dangerous drugs.

9 ...

10 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
11 violation of or conspiring to violate any provision or term of this chapter or of the applicable
12 federal and state laws and regulations governing pharmacy, including regulations established by
13 the board or by any other state or federal regulatory agency.

14 ...”

15 10. Section 4081 of the Code provides, in pertinent part:

16 “(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
17 or dangerous devices shall be at all times during business hours open to inspection by authorized
18 officers of the law, and shall be preserved for at least three years from the date of making. . . .

19 “(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal
20 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-
21 charge, for maintaining the records and inventory described in this section.”

22 11. Section 4113, subdivision (c) of the Code states: “The pharmacist-in-charge shall be
23 responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining
24 to the practice of pharmacy.”

25 12. Section 4307 of the Code provides, in pertinent part:

26 “(a) Any person who has been denied a license or whose license has been revoked or is
27 under suspension, or who has failed to renew his or her license while it was under suspension, or
28 who has been a manager, administrator, owner, member, officer, director, associate, partner, or

1 any other person with management or control of any partnership, corporation, trust, firm, or
2 association whose application for a license has been denied or revoked, is under suspension or has
3 been placed on probation, and while acting as the manager, administrator, owner, member,
4 officer, director, associate, partner, or any other person with management or control had
5 knowledge of or knowingly participated in any conduct for which the license was denied,
6 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
7 administrator, owner, member, officer, director, associate, partner, or in any other position with
8 management or control of a licensee as follows:

9 “(1) Where a probationary license is issued or where an existing license is placed on
10 probation, this prohibition shall remain in effect for a period not to exceed five years.

11 “(2) Where the license is denied or revoked, the prohibition shall continue until the license
12 is issued or reinstated.

13 . . .”

14 13. California Code of Regulations, title 16, section 1714 provides, in pertinent part:

15 “(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
16 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
17 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
18 of pharmacy.

19 . . .

20 “(d) Each pharmacist while on duty shall be responsible for the security of the prescription
21 department, including provisions for effective control against theft or diversion of dangerous
22 drugs and devices, and records for such drugs and devices. . . .”

23 COSTS

24 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 **FACTUAL BACKGROUND**

2 15. On or about February 3, 2015, Respondent Souza, who at the time was Respondent
3 Alisal's pharmacist-in-charge, reported to the Board that Respondent Alisal had experienced a
4 loss of hydrocodone/acetaminophen 10/325mg, a Schedule II controlled substance and dangerous
5 drug. Respondent Souza later determined that Respondent Alisal had also experienced a loss of
6 alprazolam 2mg, a Schedule IV controlled substance and dangerous drug.

7 16. A Board Inspector determined that Respondent Alisal experienced a loss of 68,239
8 tablets of hydrocodone/acetaminophen 10/325mg between June 1, 2013, and February 3, 2015,
9 and a loss of 913 tablets of alprazolam 2mg between June 1, 2013, and January 28, 2015.

10 17. According to its records of disposition, Respondent Alisal dispensed approximately
11 1,136 tablets of alprazolam 2mg manufactured by Sandoz between June 1, 2013, and January 28,
12 2015. Respondent Alisal did not retain purchase records for those alprazolam 2mg tablets.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Failure to Maintain Facilities to Ensure Proper Maintenance and Security of Drugs)**

15 18. Respondents Alisal and Souza are subject to disciplinary action under section 4301,
16 subdivision (o) of the Code and California Code of Regulations, title 16, section 1714,
17 subdivisions (b) and/or (d), in that Respondents Alisal and Souza failed to maintain Respondent
18 Alisal's facilities, space, fixtures, and/or equipment so that drugs were safely and properly
19 prepared, maintained, secured and/or distributed. The circumstances of this conduct are set forth
20 above in paragraphs 14 and 15.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Failure to Preserve Records of Manufacture, Sale, and/or Acquisition of Dangerous Drugs)**

23 19. Respondents Alisal, Souza, and Basrai are subject to disciplinary action under
24 sections 4301, subdivisions (j) and/or (o), and 4081, subdivisions (a) and/or (b) of the Code, in
25 that Respondents failed to preserve certain records of manufacture, sale, acquisition, or
26 disposition of dangerous drugs or dangerous devices. The circumstances of this conduct are set
27 forth above in paragraph 16.

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1 **OTHER MATTERS**

2 20. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
3 Number PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy, GSB
4 Pharmaceutical Enterprises dba Alisal Pharmacy shall be prohibited from serving as a manager,
5 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
6 Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy Permit Number
7 PHY 50019 is reinstated if it is revoked.

8 21. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
9 PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy while Gurpartap
10 Singh Basrai was an officer or owner of GSB Pharmaceutical Enterprises dba Alisal Pharmacy
11 and had knowledge of or knowingly participated in any conduct for which Pharmacy Permit
12 Number PHY 50019 was disciplined, Gurpartap Singh Basrai shall be prohibited from serving as
13 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
14 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
15 Permit Number PHY 50019 is reinstated if it is revoked.

16 **DISCIPLINE CONSIDERATIONS**

17 22. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
18 Complainant alleges that on or about March 2, 2001, in a prior disciplinary action entitled *In the*
19 *Matter of the Accusation Against Gurpartap Singh Basrai*, before the Board, in Case Number
20 2231, Respondent Basrai's Original Pharmacist License Number RPH 31057 was placed on three
21 years probation subject to certain terms and conditions. That decision is now final and is
22 incorporated by reference as if fully set forth herein.

23 23. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
24 Complainant further alleges that on or about August 27, 2014, in Case No. CI 2011 49013, the
25 Board issued a Citation and Fine to Respondent Basrai based on violations of sections 4301,
26 subdivision (g) (knowingly making or signing any certificate or other document that falsely
27 represents the existence or nonexistence of a state of facts) and 4201, subdivision (i) (failure to
28 report a change in the proposed beneficial ownership interest to the Board within thirty (30) days),

1 of the Code. That Citation and Fine is now final and is incorporated by reference as if fully set
2 forth herein.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Original Permit Number PHY 50019 issued to GSB
7 Pharmaceutical Enterprises to do business as Alisal Pharmacy, Gurpartap Singh Basrai, President
8 and Secretary;

9 2. Revoking or suspending Original Pharmacist License Number RPH 22767 issued to
10 Robert A. Souza;

11 3. Revoking or suspending Original Pharmacist License Number RPH 31057 issued to
12 Gurpartap Singh Basrai;

13 4. Prohibiting GSB Pharmaceutical Enterprises dba Alisal Pharmacy from serving as a
14 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
15 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
16 Permit Number PHY 50019 is reinstated if Pharmacy Permit Number 50019 issued to GSB
17 Pharmaceutical Enterprises dba Alisal Pharmacy is revoked;

18 5. Prohibiting Gurpartap Singh Basrai from serving as a manager, administrator, owner,
19 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
20 Number PHY 50019 is placed on probation or until Pharmacy Permit Number PHY 50019 is
21 reinstated if Pharmacy Permit Number 50019 issued to GSB Pharmaceutical Enterprises dba
22 Alisal Pharmacy is revoked;

23 6. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
24 investigation and enforcement of this case pursuant to Business and Professions Code section
25 125.3; and

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7. Taking such other and further action as deemed necessary and proper.

DATED: 5/27/17 Virginia Herold

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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